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October 9

Perley I. Fitts, Commissioner
Department of Agriculture
State House
Concord, New Hampshire

Dear Mr. Fitts:

This will acknowledge your letter of September 12, 1958, with which you enclosed two letters addressed to you by Allan J. Collins, State Conservationist, both dated September 9, 1958. You request our opinion on the question raised in one of Mr. Collins' letters.

In this letter Mr. Collins refers to Laws 1955, chapter 371, Joint Resolution Providing an Appropriation for Works of Improvement on Small Watersheds. This Joint Resolution insofar as material to the question raised provides as follows:

"THAT there is hereby appropriated for the purpose of assisting in carrying out joint federal-state-local projects for watershed protection and flood prevention in small watersheds under the provisions of chapter 266, Revised Laws, and amendments thereto, and in cooperation with the federal government under the Watershed Protection and Flood Prevention act of the 83rd Congress, [certain sums] . . . The money herein appropriated shall be used only for <u>operating and maintaining</u> such works of improvement . . ." (emphasis supplied)

Chapter 266, Revised Laws now appears as RSA 481.

The specific question asked by Mr. Collins is whether the funds appropriated by the foregoing Joint Resolution may be used by the local sponsors of the above type of projects for the purpose of acquiring easements or rights of way.

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        In our opinion these funds may not
be used for such purposes. The words "operating and maintaining"
as used in the foregoing Joint Resolution clearly refer to the costs
of operation or running and the costs of maintenance of <u>completed</u>
projects. The cost of acquisition of easements and rights of way
is clearly a cost of the project itself and can in no sense be con-
strued as an expense of operation or maintenance.

                    Sincerely yours,

                    John J. Zimmerman
                    Assistant Attorney General

JJZ/lt